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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/053,627	01/24/2002	Michael T. Rossi	A7785	3614

7590 08/07/2003

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EXAMINER

NASRI, JAVAID H

ART UNIT

PAPER NUMBER

2839

DATE MAILED: 08/07/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application N .

10/053,627

Applicant(s)

ROSSI ET AL. *CR*

Examiner

Javaid Nasri

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1,2,17,24 and 28-31 is/are rejected.
- 7) ☒ Claim(s) 3-16,18-23 and 25-27 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 January 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>4</u> . | 6) <input type="checkbox"/> Other: . |

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities:
 - a) On page 10, line 9, change "20" to -- 18 --.
 - b) On page 10, line 14, change "12" to -- 18 --.
 - c) On page 10, line 24, change "202" to -- 102 --.
 - d) On page 10, line 24, change "FIG. 2" to -- FIG. 3 --.

Appropriate correction is required.

Drawings

2. The drawings are objected to because:
 - a) Numeral "104" is not shown in any figure per specification page 10, line 25.
 - b) Numeral "114" is not shown in any figure per specification page 11, line 1.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

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The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 28-31 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

a) In claim 28, line 2, it is not clear an optical unit is disposed in what?

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1, 2, 17 and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by Sheu (cited in IDS '939).

Sheu discloses a buffer tube (14), an optical unit (11) disposed in the buffer tube, the optical unit including at least one optical fiber and at least first and second gel layers interposed between the buffer tube and the optical unit, the first and second gel layers (see note below) have different rheological properties (see abstract), the different rheological properties of the first and second gel layers include at least one of viscosity and yield stress, the first gel layer is adapted to maintain the optical unit in an axial center position of the buffer tube,

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Note: In claim 1, the layers are not specifically specified.

7. Claims 1, 2, 17 and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by Sheu ('833, cited in IDS).

Sheu discloses a buffer tube (28), an optical unit (25) disposed in the buffer tube, the optical unit including at least one optical fiber and at least first and second gel layers interposed between the buffer tube and the optical unit, the first and second gel layers (see note below) have different rheological properties (see abstract), the different rheological properties of the first and second gel layers include at least one of viscosity and yield stress, the first gel layer is adapted to maintain the optical unit in an axial center position of the buffer tube,

Note: In claim 1, the layers are not specifically specified.

8. Claim 28 is rejected under 35 U.S.C. 102(b) as being anticipated by Garels ('539, cited in IDS).

Garels discloses an optical unit, optical fiber, a first gel layer (27) disposed around the optical unit, a second gel layer (29) disposed around the first gel layer, the first and second gel layers have different rheological properties including at least one of viscosity and yield stress.

9. Claim 28 is rejected under 35 U.S.C. 102(b) as being anticipated by Keller et al ('880, cited in IDS).

Keller et al discloses an optical unit, optical fiber, a first gel layer (15) disposed around the optical unit, a second gel layer (26) disposed around the first gel layer, the first and second gel layers have different rheological properties including at least one of viscosity and yield stress.

Allowable Subject Matter

10. Claims 3-16, 18-23 and 25-27 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

11. Claims 29-31 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

REASONS FOR ALLOWANCE

12. The following is an examiner's statement of reasons for allowance:

The reason for allowance of the claims is the inclusion of the limitation,

a) For claims 3, 4, 8, 13 and 25-27, the first gel layer surrounds the optical unit, the second gel layer surrounds the first gel layer within the buffer tube, in combination with other limitations in the claim which is not found in the prior art reference of record.

b) for claim 29, the viscosity of the first gel layer is lower than the viscosity of the second gel layer, in combination with other limitations in the claim which is not found in the prior art reference of record.

c) for claim 30, the yield stress of the first gel layer is lower than the yield stress of the second gel layer, in combination with other limitations in the claim which is not found in the prior art reference of record.

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d) for claim 31, the viscosity and yield stress of the first gel layer is lower than the viscosity and yield stress of the second gel layer, in combination with other limitations in the claim which is not found in the prior art reference of record.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Contact

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Javaid Nasri whose telephone number is 703 308 5876. The examiner can normally be reached on Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynn Feild can be reached on 703 308 2710. The fax phone numbers for the organization where this application or proceeding is assigned are 703 308 7722 for regular communications and 703 308 7724 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 308 0956.

Any correspondence to this action may be mailed to:

**Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450**

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For additional information regarding this new address, which was effective May 1, 2003, see

Correspondence with the United States Patent and Trademark Office, 68 Fed. Reg. 14332

(March 25, 2003).

Or faxed to: 703-308-7722 or 308-7724 (informal or draft communications should be clearly labeled

"PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to:

Crystal Plaza 4, Fourth Floor (receptionist)

2201 South Clark Place, Arlington, Virginia



Javaid Nasri
Primary Examiner
Art Unit 2839

JN

jhn

August 6, 2003